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09/738,959	12/14/2000	Brian Feinberg	SEDN/309	1713

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EXAMINER	
CHOWDHURY, SUMAIYA A	
ART UNIT	PAPER NUMBER
2421	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	09/738,959	FEINBERG ET AL.	
	Examiner	Art Unit	
	SUMAIYA A. CHOWDHURY	2421	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *26 August 2008*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-20* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-20* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☐ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on 8/26/08 has been entered.

Response to Arguments

2. Applicant's arguments filed 8/26/08 have been fully considered but they are not persuasive.

(a) Applicant argues "Rather Ellis discloses that the remote user receives information describing the content…Information describing the content is not the same as the content itself" on page 8, 1st paragraph of the Remarks filed 8/26/08.

The Examiner is equating information describing programs as "content" of Applicants' claim 1. In Ellis, the television distribution facility transmits information (title, rating, etc.) about programs in an EPG to the user television equipment. When a user at the user television equipment watches a program, the associated information is transmitted to the remote program access device for monitoring purposes.

(b) Applicant argues "…this is not the same as enabling or disabling distribution of programming" on page 8, 3rd paragraph of the Remarks filed 8/26/08.

Parental control features alter the distribution of programming to the child. Based on parental control features, a child is either permitted or blocked from viewing programming.

(c) Applicant argues "Ellis teaches that a remote user determines which channel to monitor… " on page 9, 1st paragraph of the Remarks filed 8/26/08.

Applicant is misinterpreting how the claim 1 is being interpreted. Claim 1 recites "receiving, at a control unit, a directive for a…". The Examiner is reading this as the remote program access device (control unit) receives a directive allowing a user such as a parent (TV distribution system operator) to use the control unit to monitor the programming being watched at the subscriber equipment (22).

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1-5, 7-13, and 16-20, are rejected under 35 U.S.C. 102(e) as being anticipated by Ellis (US 2005/0028208).

As for claim 1, Ellis teaches a method for monitoring operation of a television distribution system comprising provider equipment and subscriber equipment, said method comprising:

receiving, at a control unit (remote program access device 24 – fig. 5), a directive (command) for a television distribution system operator (remote user) to use a particular terminal (24) under control of the system operator and remote from the subscriber equipment (22 - fig. 2a) to monitor a particular channel (channel tuned to by remote user) within a plurality of channels transmitted from a head-end (12) of the provider equipment to the subscriber equipment through a distribution node (20) of the television distribution system, wherein the directive is received at the control unit through a communication means of the television distribution system (Referring to fig. 2b, programming is received over link 20, and the directive is inputted into remote program access device 24 by the user – [0072]. A remote user through remote program access device can remotely monitor what channel the television at the subscriber end is tuned to. The remote user inputs the directive to monitor what the other user at home is viewing. - [0136] – [0137]. The Examiner reads the remote user as the television distribution system operator. In essence, the remote user is the television distribution system operator since the remote user controls what the subscriber watches. The

remote user is capable of enabling and disabling distribution of programming at the household (Ellis [0018]));

sending a command indicative of the particular channel to the particular terminal to be monitored – [0136].

receiving content being transmitted on the particular channel at the particular terminal through the distribution node of the television distribution system – (The content includes the channel tuned to, rating of program, etc. [0136]-[0137] The Examiner is equating information describing programs as "content" of Applicants' claim 1. The television distribution facility transmits information (title, rating, etc.) about programs in an EPG to the user television equipment. When a user at the user television equipment watches a program, the associated information is transmitted to the remote program access device for monitoring purposes.);

capturing the received content and reporting the captured content – [0136]-[0137];

As for claim 2, Ellis teaches the reported contents are used to verify delivery of contents from the television distribution system – (Observations of the received monitoring system provide verification of the content delivery at the display site – [0136]- [0137]).

As for claim 3, Ellis teaches the reported contents are used to verify operation of a user interface at the particular terminal – (The monitoring method takes into account verifying of a "user interface mechanism" –[0135]-[0137]).

As for claims 4 and 18, Ellis teaches wherein the received contents are captured as one or more video frames- [0135].

As for claims 5 and 19, Ellis teaches wherein the received contents are captured as a video sequence – [0135].

As for claim 7, Ellis teaches wherein the directive is received as a part of a regular monitoring schedule – [0157], [0071].

As for claim 8, Ellis teaches the command is sent to a remote control unit – [0092].

As for claim 9, Ellis teaches wherein the particular terminal is selected from among a plurality of terminals comprising at least one model operable to mimic a terminal in the subscriber equipment (Remote program guide access device 24 can be selected from among an array of computing devices, including that device which is at the subscriber terminal – [0092]. Device 24 displays status information about the subscriber terminal. Thus, the limitation "mimic a subscriber terminal" is met- [0136]).

Claim 10 contains the limitations of claim 1 and is analyzed as previously discussed with respect to that claim.

As for claim 11, Ellis teaches a monitor and control unit operatively coupled to the control unit and configured to provide the directive to monitor the particular channel at the selected terminal – [0092], [0136].

As for claim 12, Ellis teaches the monitor and control unit is further configured to provide a set of directives to test user interaction at the selected terminal (The remote program access device 24 sends monitoring instructions for monitoring whether the interactive television program guide is in use. As a result, user interaction with the user interface mechanism is tested. – [0136]).

As for claim 13, Ellis teaches the monitor and control unit is further configured to provide a set of directives to verify proper delivery of contents on a plurality of channels to a plurality of terminals (The remote program access device 24 provides monitoring instructions to the user terminal. The monitoring instructions meet the claimed "set of directives" and the observations of the received monitoring information provide verification of the content delivery at the display site [0136]. There are multiple display sites on the network – fig. 30a).

As for claim 16, Ellis teaches a plurality of terminals (television equipment 244 – fig. 27) of a plurality of terminal models deployable in the subscriber equipment – (The more recently the terminal has been deployed, the more likely it is that it will be of a newer model. For example, a user who subscribed to cable tv in 1996, is likely to have an older model STB than a user who subscribed to cable tv in 2006. - [0185]).

As for claim 17, Ellis teaches the control system includes a media capture unit configured to capture the contents received from the selected terminal (The review of the monitoring information produced by the monitoring instructions after the information is received at the remote programming guide access device which enable conclusions regarding the observer's observation of the content to be deduced ([0136]-[0137]). The reception of the monitoring information inherently teaches some sort of “capture" unit for capturing the content.).

Claim 20 contains the limitations of claims 1 and 10 and is analyzed as previously discussed with respect to that claim.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

6. Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Simsic (6269484).

As for claim 6, Ellis fails to disclose wherein the captured contents are reported as a bitmap.

In an analogous art, Simsic teaches wherein the content transmitted is in bitmap format – col. 4, lines 8-13.

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Ellis' invention to include wherein the content transmitted is in "bitmap" format instead of the "one or more frames", as taught by Simsic, in order to gain additional valuable data about the operation of the apparatus through querying and monitoring.

7. Claims 14 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Ellis in view of Blumenau.

As for claim 14, Ellis fails to teach the command directs the selected terminal to tune to the particular channel.

In an analogous art, Blumenau teaches the command directs the selected terminal to tune to the particular channel (Referring to fig. 3c, Blumenau teaches the subscriber terminal that is used for transmitting monitoring information must be tuned to a channel in order to transmit the monitoring information to content provider 301. The

content being viewed is transmitted to the content provider 301. As a result, the selected terminal (301) is tuned to the channel. – col. 11, lines 1-13).

It would have been obvious to one of ordinary skill in the art at the time of applicant's invention to modify Ellis's invention to include the above mentioned limitation, as taught by Blumenau, in order to enable conclusions regarding the observer's observation of the content to be deduced.

Claim 15 contain the limitations of claim 14 and is analyzed as previously discussed with respect to that claim. Claim 15 additionally calls for the following which Ellis teaches:

A remote control unit configured to receive a command for monitoring (display remote, touch-screen remote – [0092]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SUMAIYA A. CHOWDHURY whose telephone number is (571)272-8567. The examiner can normally be reached on Mon-Fri, 9-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Miller can be reached on (571) 272-7353. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/John W. Miller/
Supervisory Patent Examiner, Art Unit 2421

/Sumaiya A Chowdhury/
Examiner, Art Unit 2421